

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

MULHOLLAND ENERGY SERVICES, LLC §
§
Plaintiff, §
§
v. § **CASE NO. SA-24-CA-00093-XR**
§
KLAUS, INC. §
§
Defendant/Third-Party Plaintiff, §
§
v. §
§
ENBRIDGE PIPELINES, INC.; §
CLEVELAND INTEGRITY SERVICES, §
LLC; and CLERMONT INNOVATIVE §
DESIGN, LLC, §
§
Third-Party Defendants. §

JOINT MOTION TO AMEND SCHEDULING ORDER

Pursuant to Fed. R. Civ. P. 16(b)(4), Defendant/Third-Party Plaintiff Klaus, Inc. (“**Klaus**”), Plaintiff Mulholland Energy Services LLC (“**Mulholland**”), and Third-Party Defendant Clermont Innovative Design, LLC (“**Clermont**”) (collectively, the “**Parties**”), by and through their undersigned counsel of record, jointly move the Court to Amend the current Scheduling Order (Doc. 16) by extending the deadlines as set out forth herein. In support of this Motion, Plaintiff and Defendants state as follows:

1. The February 1, 2024 Order and Advisory required the parties to submit a proposed scheduling order for the Court’s consideration by February 29, 2024. At that time, only Klaus and Mulholland were parties.

2. On February 22, 2024, Klaus and Mulholland submitted their Agreed Scheduling Recommendations (Doc. 13). At this time, the Third-Party Complaint had not been filed, and thus, neither Clermont nor Enbridge Pipelines, Inc. was a party.

3. On February 28, 2024, this Court adopted the Recommendations and entered the current Scheduling Order applicable to this case (Doc. 16).

4. Klaus filed its Third-Party Complaint on April 26, 2024 (Doc. 22), to which Clermont filed a Motion to Dismiss (Doc. 31) and Answer (Doc. 32) on July 1, 2024. Klaus filed its response in opposition to the Motion to Dismiss on July 15, 2024 (Doc. 33).

5. Klaus has encountered difficulty in serving Third-Party Defendant Enbridge Pipeline, Inc. (the party purportedly supplying the plans and specifications to Klaus during its performance of the contract). It is anticipated that service will be effectuated in the next 30 to 60 days.

6. Limited discovery has occurred while the parties discuss settlement. The Parties require the first extension of the dates in the current Scheduling Order to complete any additional discovery and depositions. At this time, the parties do not believe Settlement Conference would be beneficial.

7. The extensions sought by this Motion are occasioned, in large part, because the Parties have been in the process of resolving the dispute, and believe the additional time will allow these discussions to be more fruitful. Further the late additions of third-party defendants require additional time for discovery. The extended deadlines will also allow Klaus additional time to serve Enbridge Pipeline, Inc. (or determine who the proper party is, and substitute same).

8. Rule 16(b)(4) provides that “[a] schedule may be modified only for good cause and with the judge’s consent.”

9. Accordingly, the Parties respectfully request that the Court amend the deadlines as requested herein.

10. The Parties have conferred and agreed on the relief sought in this Motion, and are confident that the remaining discovery can be completed and the suggested deadlines met without the need to alter the other deadlines in the Scheduling Order

11. A proposed order granting the relief requested is respectfully submitted herewith.

WHEREFORE, Defendant/Third-Party Plaintiff Klaus, Inc., Plaintiff Mulholland Energy Services LLC, and Third-Party Defendant Clermont Innovative Design, LLC, respectfully move the Court to amend the Scheduling Order in this case as requested herein, and make any further adjustments to the schedule as the Court deems just and proper.

Respectfully submitted,

Magana & Van Dyke, PLLC

/s/ *Jason Lee Van Dyke* (w/permission)

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**ATTORNEYS FOR THIRD-PARTY
DEFENDANT CLERMONT INNOVATIVE
DESIGN, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2024, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Jason Lee Van Dyke
Jared L. Byrd

Ryan T. Scharnell
Ryan T. Scharnell